

the settlement or simplification of the issues by consent of the parties or by the use of alternative means of dispute resolution; transmit the request of parties for the appointment of a mediator or settlement judge, as provided by § 502.91 of this part; require the attendance at any such conference pursuant to 5 U.S.C. 556(c)(8), of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy; regulate the course of the hearing; prescribe the order in which evidence shall be presented; dispose of procedural requests or similar matters; hear and rule upon motions; administer oaths and affirmations; examine witnesses; direct witnesses to testify or produce evidence available to them which will aid in the determination of any question of fact in issue; rule upon offers of proof and receive relevant material, reliable and probative evidence; act upon petitions to intervene; permit submission of facts, arguments, offers of settlement, and proposals of adjustment; and, if the parties so request, issue formal opinions providing tentative evaluations of the evidence submitted; hear oral argument at the close of testimony; fix the time for filing briefs, motions, and other documents to be filed in connection with hearings and the administrative law judge's decision thereon, except as otherwise provided by the rules in this part; act upon petitions for enlargement of time to file such documents, including answers to formal complaints; and dispose of any other matter that normally and properly arises in the course of proceedings. The presiding officer or the Commission may exclude any person from a hearing for disrespectful, disorderly, or contemptuous language or conduct.

(b) All of the functions delegated in subparts A to Q of this part, inclusive, to the Chief Judge, presiding officer, or administrative law judge include the functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter, pursuant to the provisions of section 105 of Reorganization Plan No. 7 of 1961. [Rule 147.]

[49 FR 44369, Nov. 6, 1984; 49 FR 47394, Dec. 4, 1984, as amended at 58 FR 38650, July 19, 1993]

#### **§ 502.148 Consolidation of proceedings.**

The Commission or the Chief Judge (or designee) may order two or more proceedings which involve substantially the same issues consolidated and heard together. [Rule 148.]

#### **§ 502.149 Disqualification of presiding or participating officer.**

Any presiding or participating officer may at any time withdraw if he or she deems himself or herself disqualified, in which case there will be designated another presiding officer. If a party to a proceeding, or its representative, files a timely and sufficient affidavit of personal bias or disqualification of a presiding or participating officer, the Commission will determine the matter as a part of the record and decision in the case. [Rule 149.]

#### **§ 502.150 Further evidence required by presiding officer during hearing.**

At any time during the hearing, the presiding officer may call for further evidence upon any issue, and require such evidence where available to be presented by the party or parties concerned, either at the hearing or adjournment thereof. [Rule 150.]

#### **§ 502.151 Exceptions to rulings of presiding officer unnecessary.**

Formal exceptions to rulings of the presiding officer are unnecessary. It is sufficient that a party, at the time the ruling of the presiding officer is made or sought, makes known the action which it desires the presiding officer to take or its objection to an action taken, and its grounds therefor. [Rule 151.]

#### **§ 502.152 Offer of proof.**

An offer of proof made in connection with an objection taken to any ruling of the presiding officer rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form or of reference to documents or records, a copy of such evidence shall be marked for identification and shall constitute the offer of proof. [Rule 152.]